

### **REMARKS/ARGUMENTS**

Claims 1-8, 10-16, 18-24, 33-40 and 55-84 are pending in the present application. Claims 74-84 were withdrawn from consideration and claims 9, 17, 25-32, and 41-54 were cancelled. In the Office Action, claims 1-8, 10-16, 18-24, 33-40 and 55-73 were rejected. In response to the Office Action, claims 1, 33, 39, 55, 60, 64, 69, 72 and 73 have been amended. No new subject matter has been added. Reexamination and reconsideration of the pending claims as amended is respectfully requested.

#### **Claim Rejections – 35 USC § 103**

Claims 1-8, 10-16, 18-24, 33-40, and 55-73 were rejected under 35 USC § 103(a) as being unpatentable over US Patent No. 6,887,268 to Butaric et al. (hereinafter Butaric) in view of US Patent No. 6,162,246 to Barone (hereinafter Barone). Such rejections are traversed in part and overcome in part for at least the following reasons.

#### **Independent claims 1 and 33**

Independent claim 1 prior to amendment recited “at least one sinusoidal leg member.” Sinusoidal refers to the condition of being shaped like a sine wave. A sine wave has a plurality of peaks and valleys and hence a plurality of bends. The Office Action characterizes Butaric as disclosing sinusoidal leg members 11a/11b. Applicants respectfully disagree with this characterization of Butaric. Nowhere does Butaric teach or suggest that his prostheses 11a/11b are sinusoidal. The term “sinusoidal” does not appear in Butaric, nor do any of the figures in Butaric teach or suggest that prostheses 11a/11b are sinusoidal. While Fig. 1 shows a slight curve in prostheses 11a/11b, one of skill in the art would not characterize this as sinusoidal, as claimed. Moreover, none of the figures show the prostheses as having a plurality of peaks and valleys. Therefore, Butaric fails to teach or suggest “at least one sinusoidal leg member” as recited by claim 1.

Nevertheless, in order to more clearly distinguish the claimed invention from Butaric, claim 1 has been amended to now recite in part that the sinusoidal leg has a plurality of bends. Support for this amendment may be found in at least Figs. 5-10 of the application as

filed, as well as paragraph 0063 of the specification, therefore no new matter has been added. Butaric fails to teach or suggest a plurality of bends, as now recited by claim 1. Barone fails to provide the elements missing from Butaric. Barone discloses iliac prostheses having a slight curve, but fails to teach or suggest that his prostheses are sinusoidal and have a plurality of bends.

Independent claim 33 has similarly been amended as claim 1, therefore for at least the same reasons as discussed above, claim 33 is also distinguished from Butaric and Barone.

Because the cited references alone or on combination fail to teach or suggest each and every element of the claimed invention, *prima facie* obviousness cannot be established under 35 USC § 103(a). Applicants respectfully request withdrawal of the obviousness rejection and allowance of independent claims 1 and 33, along with the claims depending therefrom.

#### Independent claims 55 and 64

Independent claim 55 was also rejected as being obvious over the combination of Butaric in view of Barone. Such rejections are traversed in part and overcome in part for at least the following reasons.

Prior to amendment, independent claim 55 recited at least one stent member comprising a plurality of expandable members, and that some of the expandable members comprise a self-expanding material others of the expandable members comprising a balloon-expandable material. Neither Butaric nor Barone teach or suggest a stent member having both self-expanding material and balloon-expandable material, as claimed. Butaric discloses that his stent may be self-expanding, or may be expandable using an inflatable device, such as a balloon or the like (col. 9, lines 55-56). Nowhere does Butaric teach or suggest a stent having both materials. Similarly, Barone also discloses that a balloon may be used to deform the stent (col. 15, line 57) or the stent may be a resilient type with a tendency to expand to its relaxed condition when the stent is released from its compressed condition (col. 15, lines 63-66). Thus, Barone's stent is either balloon expandable or self-expanding, but not both. Hence Barone also fails to teach or suggest this feature of the claimed invention.

Nevertheless, in order to more clearly distinguish the claimed invention from the cited references, claim 55 has been amended to now recite in part that the self-expanding material and the balloon expandable material are part the same at least one stent member. Support for this amendment may be found in paragraph 0059 of the application as filed, therefore no new matter has been added. As discussed above, Butaric and Barone disclose stents that may have balloon expandable material or self-expanding material, but the cited references fail to teach or suggest a stent that has both materials. Claim 55 has also been amended to clarify the claim language, and now recites in part that at least one of the expandable members that are coupled together circumferentially comprise a self-expanding material and at least another of the expandable members comprise a balloon-expandable material. No new matter has been added.

Independent claim 64 has similarly been amended as claim 55, therefore for at least the same reasons, claim 64 and the claims depending therefrom are also distinguished from the cited references.

Therefore, because the cited references alone or in combination, fail to teach or suggest each and every element of the claimed invention, *prima facie* obviousness cannot be established under 35 USC § 103(a). Applicants respectfully request withdrawal of the obviousness rejection and allowance of independent claims 55 and 64, along with the claims depending therefrom.

Dependent claims 39, 60, 69, 72 and 73 have also been amended to more clearly distinguish the claimed features. Claims 39 and 60 have been amended to now recite that the self-expanding and balloon expandable features are part of the same stent as discussed above. Support may be found in paragraph 0059 of the application as filed therefore no new matter has been added. Claims 69 and 72 have been amended to recite that the sinusoidal feature includes a plurality of bends. Support for this amendment may be found in the figures as well as paragraph 0063 of the application as filed, therefore no new matter has been added. Finally, claim 73 has been amended to recite in part additional details about the helix which are supported in paragraph 0065 of the application as filed, hence no new matter has been added.

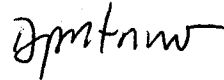
**CONCLUSION**

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

Further, the Commissioner is hereby authorized to charge any additional fees or credit any overpayment in connection with this paper to Deposit Account No. 23-2415.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 650-493-9300.

Respectfully submitted,



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